



## SENATE BILL 530: Prohibit E-Cigarette Sales to Minors

2013-2014 General Assembly

**Committee:** Senate Judiciary I  
**Introduced by:** Sen. Goolsby  
**Analysis of:** PCS to Second Edition  
S530-CSTG-33

**Date:** May 6, 2013  
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**SUMMARY:** *Senate Bill 530 adds tobacco-derived products and vapor products to the criminal statutes prohibiting access to tobacco products by individuals under the age of 18 years. The PCS makes technical corrections to the bill.*

**[As introduced, this bill was identical to H864, as introduced by Rep. Fulghum, which is currently in House Judiciary Subcommittee B.]**

**CURRENT LAW:** G.S. 14-313 prohibits the distribution of a "tobacco product" to persons younger than 18 years old. "Tobacco product" is defined as "any product that contains tobacco and is intended for human consumption." "Distribution" includes giving tobacco product samples or cigarette wrapping papers to the ultimate consumer. G.S. 14-313(a).

It is a Class 2 misdemeanor for any person to distribute (or aid, assist, or abet another in distributing) tobacco products or cigarette wrapping papers to any person under the age of 18, or for any to purchase tobacco products or cigarette wrapping papers on behalf of a person who is under the age of 18. Retailers are required to prominently display a specified sign near the point of sale indicating the purchase of tobacco products by persons under the age of 18 is prohibited by State law and proof of age will be required. Failure to display the sign is an infraction punishable by a fine of 25 dollars for the first offense and 75 dollars for each succeeding offense. G.S. 14-313(b).

A person selling tobacco products is required to ask for proof of age from a prospective purchaser if there are reasonable grounds to believe that purchaser is under the age of 18. Failure to demand proof of age is a Class 2 misdemeanor if the purchaser is under age 18. Retailers are required to train their staff on the law, and the statute provides a defense to the criminal charge under specified circumstances.

G.S. 14-313(b1) regulates the distribution of tobacco products in vending machines. Tobacco products are not to be distributed in vending machines unless the vending machines are located on premises that are only open to individuals 18 years or older; or the vending machine is under the continuous control of, and can be operated only upon activation by, the owner or licensee of the premise, or an employee. The owner, licensee, or employee is also required to demand proof of age when the owner, licensee, or employee has reasonable grounds to believe the purchaser is under 18. A violation of G.S. 14-313(b1) is a Class 2 misdemeanor.

G.S. 14-313(c) provides that any person under the age of 18 who purchases, accepts receipt of, or attempts to purchase or accept receipt of, tobacco products or cigarette wrapping papers is guilty of a Class 2 misdemeanor. Presenting or offering any purported proof of age that is false or fraudulent for the purposes of purchasing tobacco is also a Class 2 misdemeanor.

G.S. 14-313 (d) provides that sending a person younger than 18 years old to purchase, or attempt to purchase, tobacco products is a Class 2 misdemeanor. Adding or abetting a person under the age of 18 in purchasing, acquiring, or receiving, or attempting to purchase, acquire, or receive, is also a Class 2

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misdemeanor. There are exceptions for persons under 18 who are enlisted by law enforcement or the Department of Health and Human Services to verify compliance with the law by participating in random inspections of establishments distributing tobacco products or other such tests of compliance.

G.S. 14-313(e) states the intent of the General Assembly is to have a uniform system for the regulation of tobacco products. No political subdivisions, boards, or agencies of the State, nor any county, city, municipality, municipal corporation, town, township, village, may enact ordinances, rules, or regulations, concerning the sale, distribution, display, or promotion of tobacco products.

## **BILL ANALYSIS:**

Senate Bill 530 creates two new definitions under G.S. 14-313(a).

- Tobacco-derived products: Any noncombustible product derived from tobacco that contains nicotine and is intended for human consumption, whether chewed, absorbed, dissolved, ingested, or by other means.
- Vapor product: Any noncombustible product that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. This term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe.

Senate Bill 530 expands the existing prohibition against distributing tobacco products to persons under 18 years of age to include the distribution of tobacco-derived products, vapor products, components of vapor products, or cigarette wrapping papers.

The bill also requires anyone distributing tobacco products, tobacco-derived products, vapor products, or components of vapor products through the Internet, or through other remote distribution methods, to verify the age of the customer through an independent, third-party age verification service that compares information available from public records to the personal information entered by the customer during the ordering process to establish that individual is 18 years of age or older.

The bill contains a severability clause stating that if any provision of the act or its application is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provisions or application.

**EFFECTIVE DATE:** This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

*Amy Jo Johnson, counsel to Senate Health Care Committee, substantially contributed to this summary.*